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TO:

Popham, Jeffrey D., Examiner

FROM:

Paul D. Amrozowicz, Reg. No. 45,264

COMPANY:

USPTO

DATE:

NOVEMBER 3, 2005

FAX NUMBER:

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TOTAL NO. OF PAGES INCLUDING COVER:

8

PHONE NUMBER:

SENDER'S REFERENCE NUMBER:

044.0019

RE:

RECIPIENTS REFERENCE NUMBER:

09/911,149

Transmittal

Notice of Appeal

Pre-Appeal Brief Request for Review

Arguments Accompanying Pre-
Appeal Brief Request for Review

URGENT

FOR REVIEW

PLEASE COMMENT

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NOTES/COMMENTS:

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**EXAMINING GROUP ART UNIT 2137
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INTENDED FOR ENTRY**

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PTO/SB/21 (09-04)

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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

7

Application Number

09/911,149

Filing Date

07/23/2001

First Named Inventor

Chad W. Mercer

Art Unit

2137

Examiner Name

Popham, Jeffrey D.

Attorney Docket Number

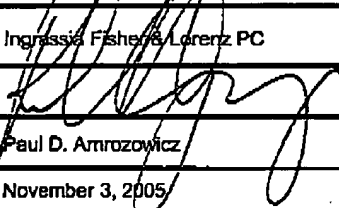
044.0019

ENCLOSURES (Check all that apply)

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| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | Request for Review. |
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| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | | |

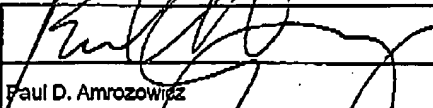
Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Ingrassia Fisher & Lorenz PC		
Signature			
Printed name	Paul D. Amrozowicz		
Date	November 3, 2005	Reg. No.	45,264

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Paul D. Amrozowicz	Date	November 3, 2005

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 044.0019	
		Application Number 09/911,149	Filed 07/23/2001
		First Named Inventor Chad W. Mercer	
		Art Unit 2137	Examiner J.D. Popham

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s)
Note: No more than five (5) pages may be provided.

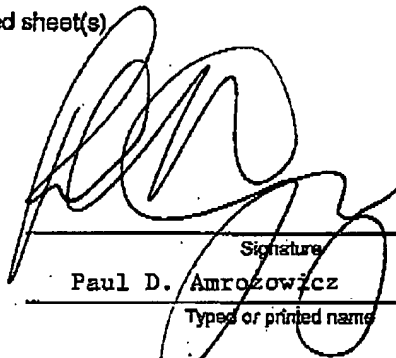
I am the:

- ☐ applicant/inventor.
☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/98)

☒ attorney or agent of record. 45,264
Registration number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34


Signature
Paul D. Amrozowicz
Typed or printed name

480 385-5060

Telephone number

November 3, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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UTILITY PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Chad W. MERCER et al. Group Art Unit: 2137
Serial No.: 09/911,149 Examiner: J. D. Popham
Filed: July 23, 2001 Confirmation No.: 4485

For: METHOD FOR ESTABLISHING A SECURITY ASSOCIATION BETWEEN
TWO OR MORE COMPUTERS COMMUNICATING VIA AN
INTERCONNECTED COMPUTER NETWORK

Docket No.: 044.0019

Customer No. : 29906

ARGUMENTS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW**I. Status of Claims**

Claims 1-8 and 36 remain pending in this application, with Claims 1, 6, and 36 being the independent claims.

II. Rejections under 35 U.S.C. § 102

Claims 1, 4, and 36 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,845,449 (Carman et al.).

Independent Claim 1 relates to method of establishing a secure communication channel for information flow between two or more computers communicating via an interconnected computer network, and independent Claim 36 relates to a computer-readable medium containing computer executable code for instructing a computer to carry out the method of independent Claim 1. Independent Claims 1 and 36 each include the steps of receiving a security association data structure from one or more computers via

the interconnected computer network, and storing the received security association data structure in a memory region having a specific memory address value associated therewith, and each recites, *inter alia*, assigning the specific memory address value as a security parameter index value associated with the received security association data structure.

Carman et al. relates to a system and method for detecting and correcting errors using an authentication mechanism, and discloses receiving security association (SA) payloads, responding with the lowest number transform that supports the SA, and generating a suite of SAs, one for each common authentication gear between communicants (col. 17, ll. 3-53). Carman et al. further discloses sending a security parameter index (SPI) and SA information to a PF_KEY module for storage in a security policy database (SPD) and a security association database (SAD), respectively (col. 17, ll. 57-60), and using the SPI to access the SAD to retrieve appropriate authentication gear information (col. 18, ll. 7-56).

According to the final Office action, the latter function noted above, namely using the SPI to access the SAD, allegedly constitutes “assigning the specific memory address value as a security parameter index value associated with the received security association data structure,” as is recited in independent Claims 1, 6, and 36. In support of this the Office action states that because Carman et al. teaches that the SPI value is “used to access the SAD,” then “the SPI must be the index (address value) associated with the SA.” See Office action at 2. Applicants submit, however, that is an erroneous conclusion.

Applicants fully admit in the background of the instant application that “using” the SPI to access the SAD is well-known. Specifically, Applicants fully disclose that the known methodology is to hash the SPI value together with the destination address and security protocol to create a hash key, which is used to hash into the SAD to find a match using a linear search technique. However, as Applicants have repeatedly argued, Applicants’ invention, as is clearly and unambiguously recited in the independent claims, is not directed to a method of merely “using” the SPI value to access the SAD. Rather, Applicants’ claimed method is much more specific in that the assigned SPI value is the

specific memory address value in which the associated SA is stored in the SAD (see Amendment dated March 4, 2005 at page 8; Amendment dated August 5, 2005 at page 3). At no time has the Examiner pointed to any location in Carman et al. where this specific feature is disclosed, taught, or even remotely suggested. The only teaching even remotely related to the "use" of the SPI goes no further than the previously mentioned generalized statements of SPI usage.

Based on the generalized statements associated with how the SPI is used, the skilled artisan reading Carman et al. could only conclude that the teaching refers to what was generally known in the art at the time the inventors invented the instant invention. Without the luxury of Applicants' own disclosure a skilled artisan would not have even considered the generalized teaching of "using" the SPI to access the SAD to mean that the SPI is the specific address value in the SAD at which the associated SA is stored.

Hence, Applicants submit that Carman et al. fails to disclose, or even remotely suggest, at least the above-noted feature of independent Claims 1 and 36. As such, Applicants respectfully request reconsideration and withdrawal of the § 102(e) rejection.

III. Rejections Under 35 U.S.C. § 103

Claims 2, 6, and 8 were rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Carman et al. and U.S. Patent Application Publication No. 2002/0184487 (Badamo et al.), Claims 3 and 7 were rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Carman et al., Badamo et al., and RFC791, and Claim 5 was rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Carman et al. U.S. Patent No. 6,055,236 (Nessett et al.). These rejections are respectfully traversed.

As regards independent Claim 6, this claim, similar to independent Claims 1 and 36, recites, *inter alia*, assigning the specific memory address value as a security parameter index value associated with the received security association data structure.

Badamo et al. relates to a network gateway device and method for receiving and transmitting secure data, RFC791 is the DARPA Internet Program Protocol Specification, and Nessett et al. relates to a system and method for locating network services with distributed network address translation. However, none of Badamo et al., RFC791, or

Nessett et al. are understood to make up for at least the above-noted deficiency of Carman et al. Namely, none of these citations discloses, or even remotely suggests, assigning the specific memory address value as a security parameter index value associated with the received security association data structure, as recited in independent Claims 1, 6, and 36.

In view of the foregoing, Applicant respectfully solicits reconsideration and withdrawal of the § 103 rejections.

IV. Conclusion

In view of the foregoing, it is submitted that the Examiner's reliance upon Carmen et al. does not support the rejection of independent Claims 1 and 36. Moreover, Applicants do not understand the other citation of record that were combined with Carmen et al., namely Badamo et al., Nessit et al., and RFC791, make up for the deficiencies of Carmen et al. As such, the above-noted rejections should be withdrawn.

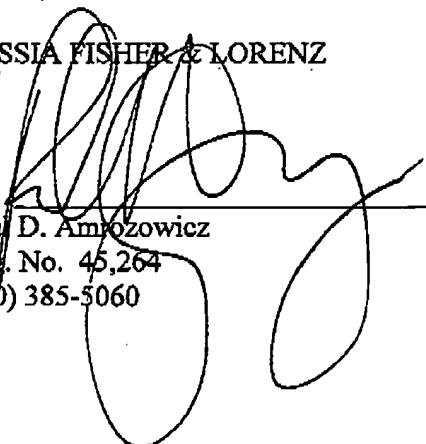
Hence, Applicants request that the reviewing panel find that the present application is in condition for allowance.

If for some reason Applicant has not paid a sufficient fee for this response, please consider this as authorization to charge Ingrassia, Fisher & Lorenz, Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

INGRASSIA FISHER & LORENZ

Dated: November 3, 2005

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